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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
TACOMA DIVISION

DONNA NEWTON,

Case No.:

Plaintiff,

v.

COMPLAINT

I. NEGLIGENCE – PREMISES  
LIABILITY

Personal Injury Action (28 U.S.C. §1332)

WAL-MART STORES, INC., a Delaware  
Corporation,

[DEMAND FOR JURY TRIAL]

Defendant.

Plaintiff, Donna Newton, alleges the following claims for relief against Defendant,  
Wal-Mart Stores, Inc.:

I. PARTIES

1. At all times relevant to the factual allegations herein, Plaintiff, Donna Newton  
("Plaintiff"), was an individual residing in Clark County in the city of Amboy, Washington.

2. At all times relevant to the factual allegations herein, Defendant, Wal-Mart  
Stores, Inc. ("Wal-Mart"), was a foreign Delaware Corporation whose principal place of  
business is at 702 SW 8<sup>th</sup> Street, Bentonville, AR 72716.

3. At all times relevant to the factual allegations herein, Defendant Wal-Mart was  
in possession of, owned, operated, repaired, maintained, and controlled a Wal-Mart

1 Supercenter retail store number 5929 located at 1201 SW 13th Ave, Battle Ground, WA  
2 98604 in Clark County, Washington.

3 II. JURISDICTION AND VENUE

4 4. This Court has jurisdiction over this matter pursuant to 28 USC §§1332.

5 5. The amount in controversy exceeds, exclusive of interest and costs, the sum of  
6 \$75,000, and the action is between parties with complete diversity of citizenship.

7 6. Plaintiff's claims arose in Clark County, WA, making venue appropriate in the  
8 United States District Court in the Western District of Washington, Tacoma Division under  
9 28 USC §§1391.

10 III. FIRST CAUSE OF ACTION

11 (Common Law Negligence – Premises Liability)

12 7. Plaintiff realleges and incorporates by reference paragraphs 1 to 6.

13 8. Defendant Wal-Mart owes a legal duty to exercise reasonable care and make  
14 its premises safe for customers, who are business invitees.

15 9. Defendant Wal-Mart owes a legal duty to take reasonable precautions to  
16 protect its customers from foreseeable dangers.

17 10. Defendant Wal-Mart owes a legal duty to use reasonable diligence in  
18 preventing merchandise from falling on and injuring customers.

19 11. Defendant Wal-Mart owes a legal duty to train employees on proper safety  
20 measures and how to identify and eliminate dangerous conditions.

21 12. Defendant Wal-Mart owes a legal duty to discover unsafe conditions that pose  
22 an unreasonable risk of harm to customers.

23 13. Defendant Wal-Mart owes a legal duty to warn customers of dangerous,  
24 defective and unsafe conditions.

25 14. One of Defendant Wal-Mart's business practices is to place large and/or bulky  
26 merchandise on the highest area of shelves for storage.

1           15. Defendant Wal-Mart's business practice of placing large and/or bulky  
2 merchandise on the highest area of shelves for storage created an unreasonable risk of harm  
3 for customers.

4           16. Defendant Wal-Mart's business practice of storing merchandise on top of  
5 shelves without taking necessary steps to prevent merchandise from falling created a  
6 defective, dangerous, and unsafe condition.

7           17. Defendant Wal-Mart owes a duty to take necessary steps to prevent  
8 merchandise from falling off of shelves onto customers.

9           18. Defendant Wal-Mart knew or should have known that placing merchandise  
10 high on shelves could cause merchandise to fall and injure customers.

11           19. On or about August 12, 2018, Plaintiff was a lawful entrant, customer and  
12 business invitee of Defendant Wal-Mart's retail store number 5929 located at 1201 SW 13th  
13 Ave, Battle Ground, WA 98604 in Clark County, Washington.

14           20. While Plaintiff was shopping in Defendant's retail store, merchandise that had  
15 been negligently placed and stored on top of shelves fell and landed on Plaintiff without  
16 warning, causing severe and permanent injuries to her head and body.

17           21. Defendant Wal-Mart breached its duties to Plaintiff when it created a  
18 defective, dangerous, and unsafe condition.

19           22. Defendant Wal-Mart breached its duties to Plaintiff by failing to maintain its  
20 premises in a manner that would create a safe shopping environment.

21           23. Defendant Wal-Mart breached its duties to Plaintiff when it failed to prevent  
22 merchandise from falling on and harming Plaintiff.

23           24. Defendant Wal-Mart breached its duties to Plaintiff when it failed to properly  
24 train employees to prevent merchandise from falling and harming customers.

25           25. Defendant Wal-Mart's breach of its duties created a defective, dangerous and  
26 unsafe condition that was a proximate cause of Plaintiff's injuries and resulting damages.

1. For non-economic damages in an amount to be proven at the time of trial.
2. For economic damages in an amount to be proven at the time of trial.
3. For costs and disbursements incurred herein; and
4. For such other relief as this Court deems just and proper.

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